

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

REMARKS

In the rejection of claims 1, 2 and 4 under 35 USC 103(a) the Examiner remarks that it would have been obvious to modify the evacuation litter of Finken to have a center base panel and side torso flap members formed of flexible synthetic thermoplastic resin material "in order to facilitate cleaning and disinfecting, thereby helping to insure adequate hygiene for a patient carried therein (see Eskeli '850, col. 4, lines 56-58)". While the proposed modification if in need structurally accomplishable in view of the structural teachings and requirements of Finken, may accomplish a beneficial result toward the cleaning and disinfecting of the resulting Finken evacuation litter, the resulting modification of the Finken structure to substitute the fabric material of the envelope 18 with the synthetic thermoplastic resin material of Eskeli does not and cannot result in a structure that can render the applicant's invention as recited in the claims obvious.

Specifically, the primary reference Finken requires, first, a standard litter comprising a pair of longitudinally elongated poles 12, 14 secured together in laterally spaced apart condition by a fabric apron 16 which is attached to the poles to prevent shifting between the poles and apron, (col. 2, lines 35-41). Then to the aforementioned litter structure is secured an overlying fabric envelope 18 secured to the apron 16 and the poles 12, 14 by lashings 28, 30 passing through gromets 24, 26 and through openings through the apron 16, the lashings

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

28-30 being tied or secured in other suitable manner to secure the envelope 18 onto the poles 12, 14 (col. 2, lines 42-53).

Thus, both the apron 16 and overlying envelope 18 are secured to the carrying poles 12, 14 to prevent shifting (relative movement) therebetween. Therefore contrary to the Examiner's identification of the lashings 28, 30 as flexible hinge means, the lashings are not hinge structures and provide no hinge function whatsoever. Rather the lashings are in fact disclosed as simple securing means for attaching the envelope 18 onto the poles 12, 14, as specifically taught by the patentee. In fact, there is no hinge means or structure whatsoever in the Finken patent reference. Specifically, since Finken's flaps 36, 38, 40 and 42 are simple, lateral extensions of the flexible envelope 18 material extending laterally beyond the poles 12, 14 (col. 2, lines 54-59), the flaps are movable simply by virtue of the flexible nature of the fabric envelope material. This one-piece center panel and side flap member construction of the envelope 18 of Finken is therefore substantially the same as the one-piece stretcher 10 construction of the reference Eskeli as seen best in Figs. 1 and 2 of that reference.

Accordingly, irrespective of whether the envelope 18 of the Finken evacuation litter is provided of fabric material as is disclosed, or in the form of synthetic thermoplastic resin material as taught by Eskeli and proposed by the Examiner, both the apron and envelope structures of the primary reference still in any case must be secured to the opposite elongated poles 12, 14 that are required in the Finken litter construction. Clearly therefore, the resulting

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

modified litter construction proposed by the Examiner is still rendered longitudinally inflexible and completely incapable of being rolled into a tight cylindrical roll condition for storage and transport as is the primary object of the applicant's disclosed drag stretcher invention.

Similarly, since Eskeli also teaches a single-piece stretcher arrangement, Eskeli also cannot teach or suggest either the applicant's required provision of separate side flap members and center base panel, nor any form of interconnecting hinge means therebetween for operatively securing the separate side flap members to the center base panel in connected but separated condition along corresponding, confronting lateral edges thereof, as applicant now recites and requires, nor can it teach or suggest how any such synthetic thermoplastic resin arrangement could in fact be secured operatively to Finken's poles 12, 14 as Finken requires of his apron and envelope structure.

Additionally, Eskeli's single piece structure construction has opposite lateral side edges that define therebetween a single sheet of material that has no structure distinguishing between a base portion and opposite side flap portions and therefore cannot suggest any modification of Finken to provide separate side flap members onto a base panel, nor any teaching of how any such attachment could be made, nor certainly any form of hinge structure to accomplish that purpose, nor obviously any purpose or benefit that could be derived by any such modification.

Moreover, Eskeli's single piece structure construction specifically incorporates

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

longitudinally extending plywood stiffener members 42, 44, 46, 50, 50', 52, 52' which clearly prevent longitudinal flexibility and render the stretcher completely incapable of being rolled in its longitudinal direction into any compact, cylindrical rolled condition for storage or transport, just as is the case with the primary reference Finken's pole-mounting litter. Further, even absent the required plywood stiffener members, rolling of the Eskeli stretcher with the flaps bent inwardly into a folded condition overlying the center portion of the stretcher is impossible because the connected material forming the bend in the single sheet forms a rigidified portion along the entire length of the bends, preventing the necessary flexibility for rolling of the stretcher in its longitudinal direction. Thus, Eskeli cannot teach or suggest any stretcher arrangement intended for being rolled in its longitudinal direction into a tight, compact cylindrical roll as has been taught by the applicant.

However, in order to more clearly and specifically limit, emphasize and distinguish the structural requirements of the claimed invention over the required structural arrangements and capabilities of the stretcher constructions of Finken and Eskeli and the proposed combination thereof, independent claim I (and hence all of the pending claims) are amended herein to emphasize and more clearly recite structural limitations and features that are clearly outside of the teachings and scope of the references and thereby clearly distinguish the structure and capabilities of the claimed invention patentably over the reference teachings and any combination thereof.

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

Specifically, subparagraph a) recites the center base panel as comprising a longitudinally elongated flexible sheet of synthetic thermoplastic resin material defined by opposite longitudinal head and base ends and opposite lateral side edges, and now further, that the center base panel has sufficient flexibility to allow the center base panel to be rolled in its longitudinal direction into a tightly rolled compact cylindrical storage condition having an overall cylinder length approximately equal to the width of the center base panel between the opposite lateraly side edges thereof. This clearly defines the center base panel as a distinct, individual unit and emphasizes the requirement of its lateral side edges and longitudinally flexible and rollable nature.

Subparagraph b) has been amended to emphasize that each side flap member is a separate, individual unit associated with each lateral side edge of the center base panel and identifies that each side flap member includes a lateral side edge arranged for confronting disposition with a corresponding lateral side edge of the center base panel, and further that each side flap member has sufficient flexibility to allow rolling of the flap member in the direction of the longitudinally extending lateral side edge thereof.

Finally, subparagraph c) of claim 1 has been amended to more particularly identify the hinge means for interconnecting the side flap members and center panel in connected but separated condition, as seen in the drawings, for free pivoting movement about an axis that extends along the recited confronting edges of each of the flap members with the lateral side

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

edges of the center base panel for hinged movement of the flap members between a folded, storage position freely overlying and substantially resting upon the center base panel and an extended position substantially projecting outwardly from the lateral side edges of the center base panel (Fig. 2), the flexible hinge means also for flexibly connecting the side torso flap members to the center base panel for rolling of the interconnected center base panel and side flap members disposed in said folded storage position in the longitudinal direction of the center base panel into a tight cylindrical roll condition for storage and transport (Fig. 5), that tight cylindrical roll condition having an overall cylinder length approximately equal to the width of the center base panel between said opposite lateral side edges thereof.

The foregoing amendments to the independent claim 1 clearly and specifically identify the separate panel arrangement of the flaps and center panel of the drag stretcher of this invention and the connected but separated hinged interconnection of the individual flap members and center panel that permits the stretcher to be rolled into storage condition as taught and at the same time avoid the requirement of any stiffener members such as poles 12, 14 of Finken, plywood slats 42, 44, 46, 50, 50', 52, 52' of Eskeli, and board member 45 of Smith, while still providing sufficient longitudinal rigidity during operation of the stretcher. In this regard, applicant has taught that this structural arrangement obtains satisfactory longitudinal stiffening when the flap members are disposed in substantially perpendicular orientation with the lateral side edges of the center panel when the side flap members are in condition

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

securing a patient. No such structural arrangement or teaching is remotely found in any of the applied prior references.

In view of the foregoing discussion of the prior art references and particularly in view of the additional structural requirements and limitations now included in the amended claims, it is believed that the Examiner will agree that the claims 1-4 as now amended clearly recite and emphasize claimed structural arrangements that clearly distinguish patentably over the structures, teachings and capabilities of the prior art of record. Accordingly, reconsideration of the rejection and allowance of the claims 1-4 is respectfully solicited.

With brief regard to the rejection of claims 1 and 4 under 35 USC 103(a) and the primary reference Smith, Smith provides a stretcher having a center base panel formed as an elongated, board-receiving pocket 11 having upper and lower sheets 12, 13 forming a hollow pocket therebetween for receiving stiffener board 45 (Fig. 7, 8), the center panel pocket 11 having lateral terminal side edges 21, 22. To the pocket 11 is secured a "torso girding part, generally designated 30" secured to the upper sheet 12 at a rectangular medial region 31 located generally in the middle of the center panel pocket 11 inwardly of the lateral side edges 21, 22 of the center panel pocket member 11 (col. 3, line 41-col. 4, line 11).

This torso girding arrangement includes a pair of stiffened panels 33, 34 hingedly attached 32 to the centrally disposed medial region 31 (Fig. 1), on the top surface sheet 12 of the center panel pocket member 11 well inwardly of the lateral side edges, the stiffened

**Serial No.: 10/660,177**

**Group Art Unit: 3673**

panels 33, 34 having flexible end flaps 41, 42 extending outwardly therefrom. Similarly, limb girding flaps 60, 61 are also secured along their inner edges 62, 63 specifically to the upper sheet 12 of the board-containing pocket 11 "at a location spaced inwardly from the pocket side edges 21, 22", just as with a torso girding flap members just discussed. This structural teaching of Smith is completely unique in the prior art and provides a completely distinct structural arrangement of flaps that is completely outside the scope of both the Eskeli teachings as well as the applicant's. The purpose of this particular construction of Smith's flap attachment at the middle top surface of the pocket member is to provide flap girding of the torso in an underarm arrangement uniquely afforded by only the Smith unique construction.

Clearly, the simple modification of the primary reference Smith to substitute the material forming the top 12 and bottom 13 sheets forming the board 45-containing pocket 11 and the torso and leg flap members of synthetic thermoplastic resin material as taught by Eskeli does not and cannot result in a stretcher arrangement that in any other way departs from the specific structural teachings of the Smith stretcher for which patent was granted. Further, since Eskeli teaches a single-piece stretcher construction, Eskeli can neither provide nor suggest any modification of Smith's disclosed flap construction or position or hinge connection, etc. since Eskeli has no corresponding or equivalent structures. Moreover, since both Eskeli and Smith require longitudinal stiffener boards, no combination thereof can result in a longitudinally rollable structure. In fact, Smith teaches that his board 45 can be removed from within the



**Serial No.: 10/660,177**

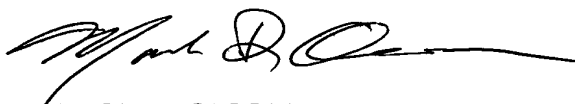
**Group Art Unit: 3673**

pocket for folding of the fabric material of the stretcher for more compact storage. However, this merely results in the requirement of the need to store and transport two separated components of the complete stretcher assembly, not a fully functional, complete stretcher assembly as a single unit as is provided by the applicant. Further, if the fabric material of Smith were replaced by Eskeli's synthetic thermoplastic resin material, there is no teaching in either reference to suggest how such a construction could then be folded as Smith requires.

Nonetheless, in view of the now clarifying and more limiting structural requirements now recited in the amended claims, it is believed that the Examiner will also agree that the amended claims now clearly recite structural requirements that unmistakably distinguish the claimed invention patentably over the reference Smith as modified by Eskeli and therefore reconsideration of the rejection and allowance of the amended claims 1-4 is respectfully solicited.

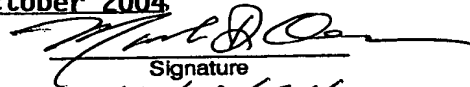
Respectfully submitted,

OLSON & OLSON



MARK D. OLSON  
Agent for Applicant  
Reg. No. 31,186  
5412 S.E. Foster Road  
Portland, Oregon 97206  
Telephone: (503) 222-1321  
Fax: (503) 274-7747  
email: patpend@teleport.com

I hereby certify that this correspondence  
is being deposited with the United States  
Postal Service as first class mail in an  
Envelope addressed to: Mail Stop \_\_\_\_\_  
\_\_\_\_\_, Commissioner for Patents,  
P.O. Box 1450, Alexandria, VA 22313-1450,  
on 6 October 2004



Signature  
10/6/04  
Date of Signature